



Attorney Docket No. 71609 US02
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

McLaughlin et al.

Confirmation No.: 8972

10/672,825

Group Art Unit: 3728

Filed: September 26, 2003

Examiner: David Fidei

For: PACKAGES, PACKAGING SYSTEMS, METHODS FOR PACKAGING
AND APPARATUS FOR PACKAGING

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR 1.97(d)

In accordance with 37 CFR 1.56, the documents listed on the attached Information Disclosure Statement by Applicant are being brought to the attention of the Examiner for consideration in connection with the examination of the above-identified patent application. Copies of the cited non-patent literature documents are enclosed.

This information is being submitted subsequent to the mailing of a final action or the mailing of a notice of allowance but before payment of the issue fee.

Applicants bring to the Examiner's attention certain facts regarding a shipment of several bales to a customer of the assignee of the present invention, Eastman Chemical Co. The shipment of the bales occurred in 1998, being sent in a sealed container to the customer for evaluation purposes under the terms of a confidentiality agreement. The event does not constitute cognizable prior art. The bales were not placed in public view during their shipment and were confidentially handled and evaluated at their destination pursuant to the confidentiality agreement. Moreover, to the best of Applicants' knowledge, the transaction was not structured in such a way that the customer could have made it into a binding contract by simple acceptance. *Group One, Ltd. v. Hallmark Cards, Inc.*, 254 F.3d 1041, 1048 (Fed. Cir. 2001). Therefore, applicants believe that the shipment and evaluation do not constitute a public use or an offer for sale.

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Moreover, the bale packaging in question did not have an evacuator and the process of preparing the bales did not comprise the step of evacuating the bale under vacuum. For at least these reasons, the claimed bales and processes of making are not anticipated. The claimed inventions would not have been obvious either. Under the provisions of M.P.E.P. §706.02(I)(2), Applicants' undersigned representative of record makes a Statement of Common Ownership, indicating that this application, U. S. Patent Application No. 10/672,825, filed on September 26, 2003, in the name of McLaughlin et al., and the invention related to the aforementioned bale packaging were, at the time the invention of this application was made, both owned by the same parent company, Eastman Chemical Co., or subject to an obligation of assignment to Eastman Chemical Co. As a result, the bale packaging in question cannot be used for obviousness purposes against the claims of the present application pursuant to 35 U.S.C. § 103 (c).

Applicants also inform the Examiner that in November 2003 a vacuum packaged bale was displayed at a trade show in Barcelona, Spain. The bale was shipped overseas in a closed crate. The bale is not prior art because it was displayed outside the United States. In addition, a pamphlet was made available at the November 2003 trade show, which has been submitted herewith.

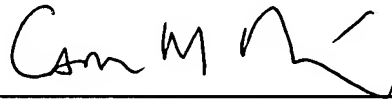
Applicants are also submitting an English-language translation of JP-06-238839 A and a copy of standard method ISO 527-3, both of which have been made of record in an opposition proceeding against European Patent No. EP 1 497 186 B1, in the European Patent Office.

If the Examiner would like further information concerning the discussed events, the bales, or pamphlets, he is invited to so inform the undersigned. Applicants include in the attached PTO/SB/08 form the relevant facts described above so that the Examiner can initial the box next to them indicating these facts have been considered in the examination of this application.

Please grant any extensions of time required to enter this Information Disclosure
Statement and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: 
Carlos M. Tellez
Reg. No. 48,638

Dated: April 30, 2007

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Substitute for form 1449

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Attorney Docket Number

71609 US02

First Named Inventor

McLaughlin et al.

COMPLETE IF KNOWN

Application Number

10/672,825

Filing Date

September 26, 2003

Group Art Unit

3728

Sheet

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of

2

Examiner Name

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY
		Number	Kind Code ² (if known)		
		2003/0183550		DiLiberto, Jr.	10-02 -2003
		3,246,443		Slemmons	04-19-1966
		3,381,440		Wullhorst	05-07-1968
		3,641,726		Cassina	02-15-1972
		4,054,204		Keeton	10-18-1977
		4,817,365		Yawberg et al.	04-04-1989
		5,603,284		Freedman	02-18-1997
		5,622,030		Steed et al.	04-22-1997
		5,775,058		Hirschek	07-07-1998
		5,966,905		O'Connor et al.	10-19-1999
		6,135,253		Weissman et al.	10-24-2000
		6,202,849	B1	Graham	03-20-2001

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	T ⁶
		Office ³	Number ⁴	Kind Code ⁵ (if known)			
		JP	06-238839 A		English-language translation	08-30-1984	

**Examiner
Signature**

**Date
Considered**

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Unique citation designation number. ²See attached Kinds of U.S. Patent Documents. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

Please type a plus (+) sign in this box →



Substitute for form 1449 INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Attorney Docket Number	71609 US02
				First Named Inventor	McLaughlin et al.
				COMPLETE IF KNOWN	
				Application Number	10/672,825
				Filing Date	September 26, 2003
				Group Art Unit	3728
Sheet	2	of	2	Examiner Name	

OTHER - NON PATENT LITERATURE DOCUMENTS				
Examiner Initials*	Cite No. ¹	Include name of the author(in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, pages(s), volume-issue number(s), publisher, city and/or country where published.	T ⁶	
		Eastman Chemical Co. confidential shipment of several bales to a customer for evaluation in 1998.		
		Barcelona, Spain, Trade Show, November 2003		
		Pamphlet entitled "Voridian Acetate Tow Technology" (Publication AT-12) (November 2003).		
		Office Action Summary with Notice of References Cited date of mailing January 17, 2007 for co-pending U. S. Patent Serial No. 11/514,420		
		ISO 527-3—Plastics—Determination of Tensile Properties (1995)		

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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